

§ 105.5

service activities of a member's spouse, or solely by reason of a member's marital status, subject to the following clarification:

(i) When necessary to ameliorate the personal hardship of a member or spouse upon the request of the member concerned, such as when a family member requires specialized medical treatment, educational provisions under DoD Instruction 1342.12¹ and Pub. L. 94-142, or similar personal preference accommodations.

(ii) To facilitate the assignment of dual-career military married couples to the same geographic area.

(iii) When otherwise required by law, such as instances in which a prohibited conflict of interest may exist between the official duties of a military member and the employment of the member's spouse.

(iv) When the Assistant Secretary of Defense (Force Management and Personnel), with the concurrence of the General Counsel, determines, on a case-by-case basis, for reasons of national security, that marital status is an essential assignment qualification for particular military billets or positions.

(3) Performance appraisals on members of the Military Services, including officer and enlisted efficiency or fitness reports, shall not contain any information regarding the employment, educational, or volunteer service activities of the member's spouse, or reflect favorably or adversely on the member based solely on the member's marital status.

§ 105.5 Responsibilities.

(a) The Secretaries of the Military Departments and the Heads of other DoD Components shall ensure compliance with this part.

(b) The Secretaries of the Military Departments shall issue regulations, enforceable under the Uniform Code of Military Justice (UCMJ), and appropriate regulations or other guidance applicable to civilian personnel, implementing this part.

¹Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, Attn: Code 1052, 5801 Tabor Avenue, Philadelphia, PA 19120.

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(c) The Assistant Secretary of Defense (Force Management and Personnel) (ASD(FM&P)) shall monitor compliance with this part.

§ 105.6 Effective date and implementation.

This part is effective February 10, 1988. The Secretaries of the Military Departments shall forward two copies of implementing documents to the Assistant Secretary of Defense (Force Management and Personnel) within 60 days.

PART 107—PERSONAL SERVICES AUTHORITY FOR DIRECT HEALTH CARE PROVIDERS

Sec.

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ENCLOSURE 1—TABLE OF AUTHORIZED COMPENSATION RATES

AUTHORITY: 10 U.S.C. 1091; Federal Acquisition Regulation (FAR), part 37.

SOURCE: 50 FR 11693, Mar. 25, 1985, unless otherwise noted.

§ 107.1 Purpose.

This part establishes policy under 10 U.S.C. 1091, "Contracts For Direct Health Care Providers," and assigns responsibility for implementing the authority for personal services contracts for direct health care providers.

§ 107.2 Applicability and scope.

(a) This part applies to the Office of the Secretary of Defense (OSD) and the Military Departments.

(b) It applies only to personal services contracts awarded under 10 U.S.C. 1091 for direct health care providers.

§ 107.3 Definitions.

(a) *Personal Services Contract.* A contract that, by its express terms or as administered, makes the contractor personnel appear, in effect, to be government employees.

(b) *Direct Health Care Providers.* Health services personnel who participate in clinical patient care and services. This does not include personnel